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Attorneys for Plaintiff
COASTAL ENVIRONMENTAL RIGHTS FOUNDATION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

COASTAL ENVIRONMENTAL RIGHTS
FOUNDATION, INC.,

Plaintiff,

v.

CALIFORNIA METALS, INC.,

Defendant.

Case No. 3:15-cv-00380-JM-RBB

**[Proposed]
CONSENT DECREE**

**(Federal Water Pollution Control Act,
33 U.S.C. § 1251 *et seq.*)**

WHEREAS, Coastal Environmental Rights Foundation (“CERF” or “Plaintiff”) is a non-profit organization founded by surfers in North San Diego County and active throughout California’s coastal communities;

WHEREAS, CERF was established to aggressively advocate, including through litigation, for the protection and enhancement of coastal natural resources and the quality of life for coastal residents, and one of CERF’s primary areas of advocacy is water quality protection and enhancement;

WHEREAS, California Metals, Inc. (“California Metals” or “Defendant”) is an Owner and/or Operator of the California Metals and Miller Metals scrap metal recycling facilities located at 297 S. Marshall Avenue, El Cajon, California (hereinafter “California Metals 297 S. Marshall Facility”) and

636 Front Street, El Cajon, California (hereinafter "California Metals 636 Front Facility") (collectively referred to as the "California Metals Facilities" or the "Sites");

WHEREAS, CERF contends that the California Metals' operations at the California Metals Facilities result in discharges of pollutants to storm drains, San Diego River and ultimately the Pacific Ocean (collectively referred to as the "Receiving Waters") and California Metals' discharges are regulated by the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq. ("CWA" or "Act"), Sections 301(a) and 402, 33 U.S.C §§ 1311(a), 1342;

WHEREAS, on June 27, 2014, CERF served California Metals, the United States Environmental Protection Agency ("EPA"), EPA Region IX, the State Water Resources Control Board ("State Board") and the Regional Water Quality Control Board ("Regional Board"), with a notice of intent to file suit ("60-Day Notice") under Sections 505(a) and (b) of the CWA, 33 U.S.C. § 1365(a) and (b). The 60-Day Notice alleged that the recipients had in the past and in fact continue to violate Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342, by discharging pollutants into Receiving Waters in violation of National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS0000001 [State Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("Industrial Permit") and the Act;

WHEREAS, on August 15, 2014, CERF served California Metals, the United States Environmental Protection Agency ("EPA"), EPA Region IX, the State Board and the Regional Board, with a second 60-Day Notice under Sections 505(a) and (b) of the CWA, 33 U.S.C. § 1365(a) and (b). The second 60-Day Notice alleged additional violations of Sections 301(a) and 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342, in violation of the Industrial Permit and the Act;

WHEREAS, on February 20, 2015, CERF filed a complaint against California Metals entitled Coastal Environmental Rights Foundation v. California Metals, Inc., ("Complaint");

WHEREAS, CERF and California Metals (collectively referred to herein as the "Settling Parties" or "Parties") have agreed that it is in the Parties' mutual interest to enter into a Consent Decree setting forth terms and conditions appropriate to resolving the allegations set forth in the Complaint without further proceedings;

///

1 **WHEREAS**, this Consent Decree shall be submitted to the United States Department of Justice
2 and the United States Environmental Protection Agency for the statutory review period pursuant to 33
3 U.S.C. § 1365(c) and 40 C.F.R. § 135.5;

4 **WHEREAS**, all actions taken by California Metals pursuant to this Consent Decree shall be
5 made in compliance with all applicable federal, state and local rules and regulations;

6 **NOW THEREFORE IT IS HEREBY STIPULATED BETWEEN THE SETTLING PARTIES**
7 **AND ORDERED AND DECREED BY THE COURT AS FOLLOWS:**

8 1. The Court has jurisdiction over the subject matter of this action pursuant to Section
9 505(a)(1)(A) of the Act, 33 U.S.C. § 1365(a)(1)(A);

10 2. Venue is appropriate in the Southern District Court pursuant to Section 505(c)(1) of the
11 Act, 33 U.S.C. §1365(c)(1), because the California Metals Facilities at which the alleged violations took
12 place are located within this District;

13 3. The Complaint states a claim upon which relief may be granted against California Metals
14 pursuant to Section 505 of the Act, 33 U.S.C. § 1365;

15 4. CERF has standing to bring this action.

16 **I. OBJECTIVES**

17 5. It is the express purpose of the Parties entering into this Consent Decree to further the
18 objectives set forth in Section 101 *et seq.* of the CWA, 33 U.S.C. § 1251 *et seq.*, and to resolve those
19 issues alleged by CERF in its Complaint. In light of these objectives and as set forth fully below,
20 California Metals agrees, *inter alia*, to comply with the provisions of this Consent Decree and to comply
21 with the requirements of the Industrial Permit and all applicable provisions of the CWA at the California
22 Metals Facilities. Specifically, Receiving Water Limitation C(2) in the Industrial Permit requires that the
23 California Metals Facilities “not cause or contribute to the exceedance of an applicable water quality
24 standard.” Effluent Limitation B(3) of the Industrial Permit requires that Best Management Practices
25 (“BMPs”) be developed and implemented to achieve Best Available Technology (“BAT”) and the Best
26 Conventional Pollutant Control Technology (“BCT”). California Metals is required to develop and

27 ///

28 ///

1 implement BMPs necessary to comply with the Industrial Permit's requirement to achieve compliance
2 with BAT/BCT standards and with Water Quality Standards.¹

3 **II. COMMITMENTS OF THE PARTIES**

4 **A. Industrial Storm Water Pollution Control Measures**

5 6. Within one-hundred (100) days of the execution of this Consent Decree, California
6 Metals agrees to present CERF with proposed design plans and specifications for the industrial storm
7 water collection and treatment facility BMPs for each California Metals Facility.

8 7. California Metals shall assess the feasibility of the following discharge minimization
9 BMPs to the extent applicable to operation and/or use of the Sites.

10 (a) Materials Storage and Industrial Activities. Placing sources of contamination in
11 covered containers or under cover with such areas contained by berming or other containment sufficient
12 to prevent the exposure of pollutants to storm water or rainwater and the runoff or discharge of
13 pollutants;

14 (b) Coating. Coating structural sources of contamination (e.g. galvanized building
15 roofs and siding);

16 (c) Sweeping. Employing high efficiency sweeping in order to prevent the discharge
17 of pollutants;

18 (d) Harvesting and Storing Runoff. Constructing and maintaining on-site retention
19 facilities (such as retention ponds or swales, infiltration basins, baker tanks, sumps, cisterns, or dry
20 wells/ injection wells) designed to hold and store the runoff generated by a 5 year 24 hour return period
21 storm event without any off-site discharge;

22 (e) Infiltrating Runoff. Creating a pervious site such that infiltration happens
23 passively through the site;

24 (f) Infiltration Structure. Collecting and routing storm water to a structure that is
25 designed to be an infiltration structure (such as an infiltration basin or dry well/ injection well);

26 (g) Treating Runoff. Treating runoff discharging from the site.

27
28 ¹ Water Quality Standards means water quality criteria contained in the Regional Water Quality Control Plan, San Diego
Region ("Basin Plan"), the California Ocean Plan, the National Toxics Rule, the California Toxics Rule, and other state or
federally approved surface water quality plans.

1 (h) Sand Filters. The Interim BMP Plan may include the installation of the advanced
2 sand filters evaluated in the Caltrans Retrofit Study (“CRS”) at appropriate locations.

3 (i) Routing Discharge to the Publicly Owned Treatment Works. Routing discharge to
4 the publicly owned treatment works (“POTW”)/ sanitary sewers, in combination with on-site retention
5 such that flows are discharged off-peak in the POTW so as not to risk exacerbating wet weather Sanitary
6 Sewer Overflow risks from the POTW.

7 (j) Vehicle and Equipment Maintenance and Fueling.

8 i. Conducting all vehicle and equipment maintenance and fueling at the
9 California Metals Facilities on asphalt or another impermeable surface;

10
11 ii. Conducting all vehicle and equipment maintenance and fueling at the
12 California Metals Facilities under cover;

13 iii. Berming of otherwise containing the surface of the area where vehicle
14 maintenance and fueling occurs (hereinafter “Maintenance and Fueling Area”) in order to prevent the
15 exposure of pollutants to storm water or rainwater and the runoff or discharge of pollutants;

16 iv. Cleaning the Maintenance and Fueling Area as necessary to control track-
17 off of pollutants;

18 v. Dispensing all petroleum products within the Maintenance and Fueling
19 Area(s);

20 vi. Installing tire washing facilities at exit points from the California Metals
21 Facilities to prevent off-site tracking from vehicles;

22 vii. Annually power washing the entire paved part of the California Metals
23 Facilities, including areas not reachable by mechanical sweepers, and dispose of the contaminated water
24 consistent with all federal, state and local requirements, and not to area storm drains.

25 8. Within thirty (30) days of receipt of the proposed design plans and specifications required
26 pursuant to Paragraph 6, CERF will review the design plans for the purpose of their incorporation into
27 the respective SWPPPs and M&RPs. If CERF does not accept the proposed design plans and
28 specifications, the parties will resolve the dispute via the Dispute Resolution process outlined herein in

Paragraphs 20 through 23. If CERF invokes the dispute resolution procedure as to only one Site's design plan, California Metals' obligations as to the other Site shall continue in full force and effect.

B. STORM WATER POLLUTION PREVENTION PLANS

9. SWPPP Revisions. Within thirty (30) days of finalization of the proposed design plans and specifications required in Paragraph 8, California Metals agrees to revise the SWPPPs currently in effect at the California Metals Facilities to incorporate all storm water pollution prevention measures and other applicable requirements set forth (i) in this Consent Decree and (ii) the 2014 Industrial Permit (NPDES No. CAS000001 as amended April 1, 2014). Specifically, the SWPPPs shall include a description of all industrial activities and corresponding potential pollution sources and, for each potential pollutant source, a description of the potential pollutants from the sources. The SWPPPs shall also identify BMPs (and their implementation dates) designed to achieve compliance with the provisions of this Consent Decree, as well as their estimated effectiveness. California Metals shall revise the SWPPPs as necessary to incorporate additional BMPs developed pursuant to this Consent Decree.

10. CERF's Review of Revised SWPPPs. California Metals shall submit one electronic copy of the revised SWPPPs to CERF upon completion of the revisions specified in Paragraph 9 concurrent with California Metals filing of a new NOI and SWPPP on SMARTS no later than July 1, 2015.

a. Within twenty (20) days of CERF's receipt of the revised SWPPPs, CERF shall provide California Metals with comments and suggestions, if any, concerning the revisions to the SWPPPs.

b. Within ten (10) days of California Metal's receipt of CERF's comments on the revised SWPPPs, California Metals shall incorporate CERF's comments and submit the revised SWPPPs to CERF and amend its filing on SMARTS.

c. If CERF is dissatisfied with either SWPPP after its re-issuance pursuant to paragraph 10(b) above, CERF may, within sixty (60) days of CERF's receipt of the SWPPP, elect to invoke the dispute resolution procedures outlined in Paragraphs 20 through 23 below. If CERF invokes the dispute resolution procedure as to only one SWPPP, California Metals' obligations as to implementation of the other SWPPP shall continue in full force and effect.

d. Within sixty (60) days of CERF's approval of the revised SWPPPs and M&RPs,

California Metals shall commence implementation of the revised SWPPPs and M&RPs if it has not already done so and begin construction of the structural BMPs as described therein.

e. California Metals shall complete construction of the structural BMPs as described in the SWPPPs and M&RPs in conformity with the schedule contained within the SWPPPs and M&RPs as approved by CERF.

C. MONITORING AND REPORTING

11. Site Inspections. During the life of this Consent Decree, CERF's Water Quality site inspection consultant, accompanied by CERF's attorney or other representative, may conduct up to two Site Inspections each calendar year at the California Metals Facilities. The Site Inspections shall occur during normal business hours and CERF shall provide California Metals two (2) business days notice prior to each inspection. During the Site Inspections, CERF and/or its representatives shall be allowed access to the California Metals SWPPP and monitoring records and to all non-privileged monitoring reports and data for the California Metals Facilities. During the Site Inspections, CERF and/or its representatives may collect split samples of storm water discharges at the California Metals Facilities. A certified California laboratory shall analyze storm water samples collected by CERF. CERF shall make every reasonable effort to ensure that its inspections are scheduled in such a manner as to allow California Metals' compliance officer to be present at all inspections.

12. Compliance Monitoring and Oversight. California Metals agrees to help defray CERF's reasonable costs incurred in conducting Site Inspections and compliance monitoring by reimbursing CERF Ten Thousand Dollars (\$10,000) for these costs. Five-Thousand (\$5,000.00) dollars of this amount shall be paid within ten (10) days of the Effective Date of this Consent Decree. The remaining Five Thousand (\$5,000.00) dollars shall be paid in ten equal installments of Five Hundred (\$500.00) dollars every thirty (30) days commencing thirty (30) days after the Effective Date. Provided, however, that California Metals shall have the right but not the obligation to prepay any unpaid balance. California Metals agrees to make compliance monitoring and oversight funds payable to "Coastal Environmental Rights Foundation" and deliver the same by certified mail or overnight delivery to Coastal Law Group, LLP, Attn: Marco Gonzalez, 1140 S. Coast Highway 101, Encinitas, CA, 92024.

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13. Reporting. During the life of this Consent Decree, on a quarterly basis, California Metals shall provide CERF with a notice regarding all compliance and monitoring data, including inspection reports, related to the California Metals Facilities that have been filed on SMARTs during the previous ninety (90) day period. In the event that CERF is unable to obtain legible copies of said compliance and monitoring data from SMARTs, California Metals shall within five (5) business days of receiving notice from CERF of its inability to obtain said compliance and monitoring data from SMARTs mail paper copies of such reports to CERF via U.S. Mail at the notice address contained herein.

14. Document Provision. During the life of this Consent Decree, California Metals shall notify CERF of all documents related to water quality at the California Metals Facilities that are filed on SMARTs or provided to a local agency or municipality. Such notification shall be provided to CERF concurrently as they are sent to the agencies and/or municipalities. If such documents are unavailable on SMARTs within a reasonable period of time, CERF may request, and California Metals will provide hard copies of such documents to CERF.

D. ENVIRONMENTAL PROJECTS AND FEES

15. Environmental Mitigation Project. California Metals agrees to pay \$5,000 to San Diego CoastKeeper for use in a supplemental environmental project to eliminate or mitigate the impacts of storm water pollution to the San Diego River watersheds receiving discharges from the California Metals Facilities. California Metals shall make the mitigation payment in ten equal monthly installments commencing thirty (30) days after the Effective Date of this Consent Decree and mailed to San Diego CoastKeeper. California Metals shall provide CERF with a copy of such payment.

16. CERF's Fees and Costs. California Metals agrees to reimburse CERF for CERF's investigation fees and costs, expert fees and costs, reasonable attorneys' fees, and other costs incurred as a result of investigating and preparing the lawsuit, and negotiating a resolution of this matter (together "Fees and Costs"). Legal fees shall be billed at a blended rate not to exceed Three Hundred Fifty (\$350.00) dollars per hour. Investigation fees, expert fees and other personnel involved in this matter shall be billed at a blended rate not to exceed One Hundred (\$100.00) dollars per hour. All non-personal expenses shall be billed at cost without markup. Five Thousand (\$5,000)) dollars of the fees and costs shall be made within ten business days of the Effective Date and the receipt by Oppen & Varco of an

itemized accounting of Fees and Costs, whichever is the later in time. The balance of Fees and Costs shall be paid in ten (10) equal installments commencing thirty (30) days after the Effective Date, provided, however, that California Metals shall have the right but not the obligation to prepay any unpaid balance. All payments shall be made payable to "Coast Law Group LLP" and delivered Attn: Marco Gonzalez, 1140 S. Coast Highway 101, Encinitas CA, 92024.

E. STIPULATED PAYMENT

17. California Metals shall make a remediation payment of One Thousand Dollars (\$1,000) for each missed deadline included in this Consent Decree, unless the missed deadline results from a Force Majeure Event. Payments for missed deadlines shall be made to San Diego CoastKeeper for the restoration and/or improvement of the watershed in the area affected by the missed deadline. California Metals agrees to make the stipulated payment within thirty (30) days of a missed deadline to San Diego CoastKeeper. California Metals shall provide CERF with a copy of each such payment.

F. COMMITMENTS OF PLAINTIFF

18. Stipulated Dismissal. Within three (3) days of execution of this Consent Decree by the Parties, CERF shall file this Consent Decree with the United States District Court for the Southern District of California ("District Court").

19. Review by Federal Agencies. CERF shall submit this Consent Decree to EPA and the U.S. Department of Justice ("DOJ") within three days of the execution of this Consent Decree for review consistent with 40 C.F.R. § 135.5. In the event that EPA or DOJ comments negatively on the provisions of this Consent Decree, the Parties agree to meet and confer to attempt to resolve the issue(s) raised by EPA or DOJ.

G. DISPUTE RESOLUTION

20. This Court shall retain jurisdiction over this matter for the purposes of implementing and enforcing the terms and conditions of this Consent Decree, and adjudicating all disputes among the parties that may arise under the provisions of this Consent Decree. The Court shall have the power to enforce this Consent Decree with all available legal and equitable remedies, including contempt.

21. Meet and Confer. A party to this Consent Decree shall invoke the dispute resolution procedures of this Section by notifying all other Parties in writing of the matter(s) in dispute and of the

1 party's intention to resolve the dispute under this Section. The Parties shall then meet and confer in an
2 attempt to resolve the dispute informally over a period of fourteen (14) calendar days from the date of
3 the notice.

4 22. If the Parties cannot resolve a dispute by the end of the meet and confer informal
5 negotiations described in Paragraph 21 above, California Metals may invoke formal mediation by
6 sending CERF a registered letter to that effect no more the five (5) business days after the fourteen (14)
7 days. Referenced in Paragraph 21 above. The Parties shall mutually agree on a mediator and a
8 mediation process within fifteen (15) business days of the date of California Metals notice to CERF.
9 California Metals shall be responsible for all of the mediator's costs.

10 23. If the Parties cannot resolve a dispute by the end of the mediation process described in
11 Paragraph 22 above, the party invoking the dispute resolution provision shall provide notice to the other
12 party that it intends to invoke formal dispute resolution by filing a motion before the United States
13 District Court for the Southern District of California. The Parties shall jointly apply to the Court for an
14 expedited hearing schedule on the motion.

15 24. If a party initiates a motion or proceeding before the Court relating to enforcement of the
16 terms and conditions of this Consent Decree, the party shall be entitled to recover fees incurred to
17 enforce the terms of this Consent Decree consistent with the provisions of Sections 505 and 309 of the
18 CWA, 33 U.S.C. §1365 and § 1319.

19 **III. RETENTION OF JURISDICTION AND TERMINATION**

20 25. The Court shall retain jurisdiction over this matter for purposes of interpreting, modifying
21 or enforcing the terms of this Consent Decree executed by the Parties, or as long thereafter as is
22 necessary for the Court to resolve any motion to enforce this Consent Decree filed within sixty (60) days
23 after completion of the obligations set forth in the Consent Decree. This Consent Decree shall terminate
24 in accordance with Paragraph 26 below after California Metals completes the construction of the
25 structural BMPs as described in the SWPPPs and M&RPs required under this Consent Decree and after
26 CERF has conducted an inspection of the completed structural BMPs.

27 26. If California Metals believes it has complied with the terms of this Consent Decree for
28 either or both of the facilities described in this Consent Decree, California Metals shall submit a written

notice of compliance and request to terminate this Consent Decree to CERF setting forth the information justifying California Metals' request for termination. Upon receipt of this written request, CERF shall have twenty-one (21) days to conduct an inspection of the California Metals Facilities in accordance with the provisions of Paragraph 11 above. If upon inspection CERF does not agree to terminate coverage under the Consent Decree, the Parties shall resolve the matter via the Dispute Resolution provisions of Paragraphs 20 through 24. If CERF has not invoked the dispute resolution provisions within 21 days of CERF's receipt of the written notice and request to terminate the Consent Decree, California Metals may move the Court to terminate the Consent Decree and CERF shall not oppose the motion.

IV. MUTUAL RELEASE OF LIABILITY AND COVENANT NOT TO SUE

27. In consideration of the above, upon termination of this Consent Decree, the Parties hereby fully release, except for claims for California Metals' failure to comply with this Consent Decree and as expressly provided below, each other and their respective successors, assigns, officers, agents, employees, landlords/property owners, and all persons, firms and corporations having an interest in them, from any and all alleged CWA violations claimed in the Complaint, up to and including the Effective Date of this Consent Decree.

28. Nothing in this Consent Decree limits or otherwise affects Plaintiff's right to address or take any position that it deems necessary or appropriate in any formal or informal proceeding before the Regional Board, EPA, or any other judicial or administrative body on any other matter relating to California Metals

V. MISCELLANEOUS PROVISIONS

29. The Parties enter into this Consent Decree to avoid prolonged and costly litigation. Neither the Consent Decree, nor any payment pursuant to the Consent Decree, nor any implementation of BMPs or any other compliance with this Consent Decree, shall constitute or be construed as – and California Metals expressly does not intend to imply—any admission to any finding, adjudication, or acknowledgment of any fact, law, or liability, nor shall it be construed as an admission of violation of any law, rule, or regulation. California Metals maintains and reserves all defenses it may have to any alleged violations that may be raised in the future.

1 30. Force Majeure. Force Majeure includes any act of God, war, fire, earthquake, windstorm,
2 flood or natural catastrophe; unexpected and unintended accidents not caused by California Metals' or
3 its employees' negligence; civil disturbance, vandalism, sabotage or terrorism; restraint by court order or
4 public authority or agency; or action or non-action by, or inability to obtain the necessary authorizations
5 or approvals from any governmental agency. Force Majeure shall not include normal inclement weather,
6 economic hardship or inability to pay. Any party seeking to rely upon this paragraph to excuse or
7 postpone performance, shall have the burden of establishing that it could not reasonably have been
8 expected to avoid the event or circumstance, and which by exercise of due diligence has been unable to
9 overcome the failure of performance. California Metals shall exercise due diligence to resolve and
10 remove any force majeure event.

11 31. Construction. The language in all parts of this Consent Decree shall be construed
12 according to its plain and ordinary meaning, except as to those terms defined in the Industrial Permit, the
13 Clean Water Act, or specifically herein.

14 32. Choice of Law. The laws of the United States shall govern this Consent Decree.

15 33. Severability. In the event that any provision, paragraph, section, or sentence of this
16 Consent Decree is held by a court to be unenforceable, the validity of the enforceable provisions shall
17 not be adversely affected.

18 34. Correspondence. All notices required herein or any other correspondence pertaining to
19 this Consent Decree shall be sent by regular, certified, or overnight mail as follows:

20 If to Plaintiff:

21 Marco Gonzalez
22 Coast Law Group LLP
23 1140 South Coast Highway 101
24 Encinitas, CA 92024

25 With copies to:

26 Coastal Environmental Rights Foundation
27 1140 South Coast Highway 101
28 Encinitas, CA 92024

1 If to California Metals:

2 S. Wayne Rosenbaum
3 Opper & Varco LLP
4 225 Broadway, Suite 1900
5 San Diego, CA 92101

6 With copies to:

7 Josh Turchin
8 California Metals, Inc.
9 297 S. Marshall Avenue
10 El Cajon, CA 92020

11 Notifications of communications shall be deemed submitted three days after the date that they
12 are postmarked and sent by first-class mail or deposited with an overnight mail/delivery service. Any
13 change of address or addresses shall be communicated in the manner described above for giving notices.
14 In addition, the Parties may agree to transmit documents electronically or by facsimile.

15 35. Effect of Consent Decree. Plaintiff does not, by its consent to this Consent Decree,
16 warrant or aver in any manner that the California Metals' compliance with this Consent Decree will
17 constitute or result in compliance with any federal or state law or regulation. Nothing in this Consent
18 Decree shall be construed to affect or limit in any way the obligation of the California Metals to comply
19 with all federal, state, and local laws and regulations governing any activity required by this Consent
20 Decree.

21 36. Counterparts. This Consent Decree may be executed in any number of counterparts, all of
22 which together shall constitute one original document. Telecopy and/or facsimile copies of original
23 signature shall be deemed to be originally executed counterparts of this Consent Decree.

24 37. Modification of the Consent Decree. This Consent Decree, and any provisions herein,
25 may not be changed, waived, discharged, or terminated unless by a written instrument, signed by the
26 Parties.

27 38. Full Settlement. This Consent Decree constitutes a full and final settlement of this matter.

28 39. Integration Clause. This is an integrated Consent Decree. This Consent Decree is
intended to be a full and complete statement of the terms of the agreement between the parties and
expressly supersedes any and all prior oral or written agreements covenants, representations, and
warranties (express or implied) concerning the subject matter of this Consent Decree.

1 40. Authority. The undersigned representatives for CERF and California Metals each certify
2 that it is fully authorized by the party whom he/she represents to enter into the terms and conditions of
3 this Consent Decree.

4 41. The provisions of this Consent Decree apply to and bind the Parties, including any
5 successors or assigns. The Parties certify that their undersigned representatives are fully authorized to
6 enter into this Consent Decree, to execute it on behalf of the Parties, and to legally bind the Parties to its
7 terms.

8 42. The Parties agree to be bound by this Consent Decree and not to contest its validity in
9 any subsequent proceeding to implement or enforce its terms. By entering into this Consent Decree,
10 California Metals does not admit liability for any purpose as to any allegation or matter arising out of
11 this Action.

12 43. The term "Effective Date," as used in this Consent Decree, shall mean the date on which
13 the Court enters this Consent Decree.

14 The undersigned representatives for CERF and California Metals each certify that he/she is fully
15 authorized by the party whom he/she represents to enter into the terms and conditions of this Consent
16 Decree and that this Consent Decree binds that party.

17 IN WITNESS WHEREOF, the undersigned have executed this Consent Decree as of the date
18 first set forth above.

19
20 COASTAL ENVIRONMENTAL
RIGHTS FOUNDATION

21 Dated: Jan 30, 2015

22
23 
24 SHIRA S. KENT, PROGRAMS DIRECTOR
CALIFORNIA METALS INC

25 Dated: _____, 2015

26
27
28 _____
Josh Turchin, President

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18 first set forth above.

19
20 COASTAL ENVIRONMENTAL
RIGHTS FOUNDATION

21 Dated: _____, 2015

22
23 _____
24 CALIFORNIA METALS INC

25 Dated: 2/9, 2015

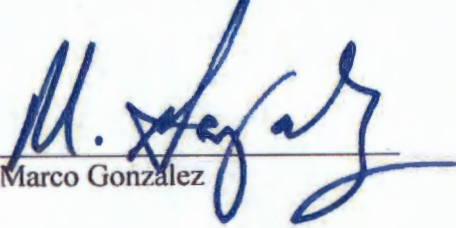
26
27 
28 Josh Turchin, President

1 APPROVED AS TO FORM

2
3
4 Dated:

1/30, 2015

COAST LAW GROUP LLP


Marco Gonzalez

5
6
7
8
9 Dated:

_____, 2015

OPPER & VARCO LLP

S. Wayne Rosenbaum

1 APPROVED AS TO FORM

3 COAST LAW GROUP LLP

4 Dated: _____, 2015

6 _____
7 Marco Gonzalcz

8
9 OPPER & VARCO LLP

10 Dated: 2/18, 2015

11 _____
12 S. Wayne Rosenbaum

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am an employee in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action; my business address is 1140 South Coast Hwy 101, Encinitas, California 92024.

On February 20, 2015, I served the foregoing documents, described as:

• **[Proposed] CONSENT DECREE**

on all interested parties in this action as follows:

Gina McCarthy
EPA Administrator
MS 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Sent via Certified Mail, Return Receipt Requested

Erik Holder, Jr.
Attorney General
Department of Justice
Citizen Suit Coordinator
Room 2615
Washington, DC 20530

Sent via Certified Mail, Return Receipt Requested

Jared Blumenfeld, Region 9
Administrator
Alexis Strauss, Deputy Regional
Administrator
U.S. EPA, Region 9
75 Hawthorne Street
San Francisco, CA, 94105

Sent via U.S. Mail

 X **(BY MAIL)** As follows:

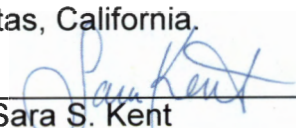
_____ I placed such envelope with postage thereon prepaid in the United States mail at Encinitas, California.

 X I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Encinitas, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation or postage meter date is more than one day after date of deposit for mailing in affidavit.

_____ **(BY ELECTRONIC MAIL)** I sent such document via electronic mail to the address(es) noted above.

 X **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on February 20, 2015 at Encinitas, California.



Sara S. Kent